

AMENDED IN SENATE MAY 18, 2016

AMENDED IN SENATE MAY 5, 2016

AMENDED IN ASSEMBLY MARCH 1, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1894

Introduced by Committee on Agriculture

February 11, 2016

An act to amend Sections 33704, 36806, 48003, 61345, 61412, 61805, ~~and 62211~~ 62211, and 76259 of, to add Section 61306.5 to, and to repeal Section 33704.5 of, the Food and Agricultural Code, and to amend Section 51203 of the Government Code, relating to food and agriculture, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1894, as amended, Committee on Agriculture. Food and agriculture: omnibus bill.

(1) Existing law regulates the production, handling, and marketing of milk and dairy products and requires milk products plants to comply with specified standards and requirements. Existing law authorizes the Secretary of Food and Agriculture to issue a limited packaging permit to a semifrozen milk products plant for on-premises manufacture and packaging of hard frozen dairy products or hard frozen dairy product novelties if certain requirements are satisfied.

This bill would delete a requirement that an establishment be closed to the public when ~~the~~ hard frozen dairy product novelties are manufactured and packaged and would delete a requirement that a manufacturer that directly serves frozen yogurt or nondairy frozen dessert on its premises post specified signs on the premises.

(2) Existing law requires certain unfrozen product mixes used in the manufacture of specified frozen dairy products to comply with all of the requirements for ice cream, frozen dairy dessert, or frozen dessert, respectively.

This bill would require frozen yogurt mix to comply with all of the requirements for frozen yogurt.

(3) Existing law requires every milk handler to pay specified assessments and fees to the ~~secretary~~ *Secretary of Food and Agriculture* to cover the costs of regulating milk. In that regard, existing law requires every milk handler who receives manufacturing milk subject to the milk marketing regulatory requirements or a handler subject to a milk stabilization and marketing plan, including producer-handlers, to deduct a specified assessment from payments made to producers for manufacturing milk or market milk, respectively. Existing law establishes the Department of Food and Agriculture Fund as a special fund, and continuously appropriates moneys in the fund for the administration and enforcement of, among other things, laws regulating the marketing of milk and other dairy products and the stabilization and marketing of market milk.

This bill would, for purposes of those provisions, define the term “educational and research activities” and would additionally provide for the regulation of milk and dairy products-related educational and research activities. The bill would authorize the use of moneys from the above-described assessments and fees for administering and enforcing the manufacturing milk and market milk laws, including the regulation of those educational and research activities. By authorizing the expenditure of moneys from the fund for a new purpose, that is, for milk and dairy-related educational and research activities, the bill would make an appropriation.

(4) Existing law establishes the California Citrus Advisory Committee and requires the committee to develop and make recommendations to the Secretary of Food and Agriculture regarding procedures for implementing an inspection program. Existing law requires producers of navel oranges, Valencia oranges, lemons, or mandarin citrus varieties grown in this state and prepared for fresh market in certain counties of the state to pay an assessment, as provided. Existing law requires the assessment to be collected from the producer by the first handler and requires that the assessment be remitted to the Department of Food and Agriculture by the first handler, along with an assessment form, at the end of each month during the marketing season. Existing law requires

any handler that does not file the required assessment report and assessments by the 10th day of the month following the month for which the assessment is payable to pay a penalty of 10% of the assessment owed and, in addition, 1.5% interest per month on the unpaid balance.

This bill would instead require a handler to file the required assessment form and pay the assessment and inspection fees by the last day of the month immediately following the month in which the commodities were received and would additionally apply the 10% penalty and 1.5% interest to a failure to pay an inspection fee. The bill would make a handler personally liable for the payment of assessments and inspection fees.

(5) Existing law establishes the California Sheep Commission, comprised of 14 members who are elected or appointed in accordance with specified provisions to serve 2-year terms and limits the terms of office for each member to 4 consecutive terms.

This bill would delete the provision limiting the terms of office of each member to 4 consecutive terms.

~~(5)~~

(6) The California Land Conservation Act of 1965, also known as the Williamson Act, authorizes a city or county to contract with a landowner for the continued use of the land for agricultural use in exchange for a lower assessed valuation for property tax purposes. Existing law requires the Department of Conservation to provide a preliminary valuation of the land to the county assessor and the city council or county board of supervisors at least 60 days prior to the effective date of the agreed upon cancellation valuation if the contract includes an additional cancellation fee.

This bill would specify that the Department of Conservation is required to provide the preliminary valuation pursuant to those provisions only if the department and landowner agree upon a cancellation value pursuant to a specified provision, as specified.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 33704 of the Food and Agricultural Code
- 2 is amended to read:
- 3 33704. (a) (1) Sections 33701, 33731, 33732, 33733, 33734,
- 4 33767, 33768, 33770, 33771, 33776, and 34593 do not apply to

1 the manufacture of ice cream that is manufactured from ice cream
2 mix, to frozen dairy dessert that is manufactured from frozen dairy
3 dessert mix, to frozen dessert that is manufactured from frozen
4 dessert mix, to frozen yogurt that is manufactured from frozen
5 yogurt mix, or to nondairy frozen dessert that is manufactured
6 from nondairy frozen dessert mix, if those products are
7 manufactured in a freezing device from which those products are
8 served directly in a semifrozen state, without packaging of any
9 type, for consumption on the premises in or from rooms where
10 food is served to the public.

11 (2) Except for nondairy frozen dessert mix, all mixes shall be
12 secured from a licensed manufacturer of milk products.

13 (3) Ice cream mix, frozen yogurt mix, frozen dairy dessert mix,
14 frozen dessert mix, and nondairy frozen dessert mix shall be
15 manufactured into a semifrozen state without adulteration and
16 freezing device salvage shall not be reused as a mix.

17 (b) A limited packaging permit may be issued by the secretary
18 to a semifrozen (soft-serve) milk products plant for on-premises
19 manufacture and packaging of hard frozen dairy products or hard
20 frozen dairy product novelties. The permit may only be issued
21 after the suitability of the facility for manufacture and packaging
22 has been determined by the secretary. An annual onsite evaluation
23 of compliance with the specific permit conditions shall be
24 completed by the secretary before renewal of the limited packaging
25 permit. A semifrozen milk products plant issued a limited
26 packaging permit shall meet all of the following standards:

27 (1) The hard frozen products shall only be sold to purchasers
28 for consumption. No hard frozen product manufactured pursuant
29 to the limited packaging permit shall be sold for resale.

30 (2) All frozen dairy product mixes used for the manufacture
31 and packaging of hard frozen dairy product novelties shall be
32 dispensed from single service containers sealed at the licensed
33 milk products plant where processed and pasteurized.
34 Reconstitution of dry mix or condensed mix is prohibited at a
35 semifrozen milk products plant issued a limited packaging permit.

36 (3) Adequate facilities, consistent with recognized good
37 manufacturing practices for the production and packaging of hard
38 frozen dairy products, as determined by the secretary, shall be
39 provided as a condition of the limited packaging permit. The
40 facilities shall include, but are not limited to, adequate utensil and

1 novelty mold washing, sterilization and storage, and sufficient
2 sanitary work area, including handwashing facilities, dedicated to
3 the manufacture and packaging of hard frozen dairy product
4 novelties. Sanitation guidelines consistent with good manufacturing
5 and handling practices for retail food establishments manufacturing
6 and packaging hard frozen dairy products in conformance with
7 Part 110 (commencing with Section 110.3) of Title 21 of the Code
8 of Federal Regulations shall be utilized by the secretary as a
9 condition for issuance and renewal of the limited packaging permit.

10 (4) Each individually packaged hard frozen novelty shall be
11 labeled with the name of the product and the name and address of
12 the manufacturer.

13 (c) Nondairy frozen dessert mix shall be obtained from
14 manufacturers licensed pursuant to Sections 38931 and 38934.
15 Any dry or condensed mix to be reconstituted into freezable form
16 shall be reconstituted on the premises in containers or equipment
17 that meet the requirements of Sections 33763, 33764, 33765, and
18 33766. Any water used for reconstitution shall be treated in a
19 manner to ensure a quality equal to potable pasteurized water.
20 Upon reconstitution, the product shall be poured directly into the
21 freezing unit or refrigerated at a temperature not to exceed 45
22 degrees Fahrenheit, and so maintained until frozen, or both.

23 (d) Where any retail establishment manufactures two or more
24 of the products provided for under this section, each of those
25 products shall be processed in a separate freezing device, and that
26 freezing device shall be clearly identified as to the product being
27 manufactured therein.

28 (e) The secretary may, by agreement with any approved milk
29 inspection service, authorize the service to inspect and enforce
30 requirements of this code applicable to the establishments covered
31 by this section. Any agreement shall provide that the approved
32 inspection service shall collect the applicable license fee for those
33 establishments as provided in Sections 35221 and 38933. The fees
34 collected shall be retained by the approved service to cover its cost
35 of enforcement, but 15 percent of the fees collected shall be
36 remitted to the secretary to cover the cost of administration.

37 SEC. 2. Section 33704.5 of the Food and Agricultural Code is
38 repealed.

39 SEC. 3. Section 36806 of the Food and Agricultural Code is
40 amended to read:

1 36806. Ice cream mix, frozen yogurt mix, frozen dairy dessert
2 mix, and frozen dessert mix are unfrozen products that are used
3 in the manufacture of ice cream, frozen yogurt, frozen dairy dessert,
4 or frozen dessert. They shall comply with all the requirements for
5 ice cream, frozen yogurt, frozen dairy dessert, or frozen dessert,
6 respectively.

7 SEC. 4. Section 48003 of the Food and Agricultural Code is
8 amended to read:

9 48003. (a) Every person acting as a handler of commodities
10 subject to this chapter shall be personally liable for the payment
11 of assessments and inspection fees. Any handler who fails to file
12 the required assessment form or pay an assessment or inspection
13 fee by the last day of the month immediately following the month
14 in which the commodities were received shall pay to the secretary
15 a penalty of 10 percent of the assessment, inspection fee, or the
16 sum of both the assessment fee and the inspection fee, owed and,
17 in addition, 1.5 percent interest per month on the unpaid balance.

18 (b) It shall be unlawful for a handler to refuse to collect the
19 assessments or remit the assessments and the proper forms required
20 by this chapter.

21 (c) A handler shall not charge a producer an administrative fee
22 for collecting or remitting an assessment.

23 (d) A producer who disputes the amount of the assessment may
24 file a claim with the secretary. The producer shall prove his or her
25 claim by a preponderance of the evidence.

26 (e) A producer may not bring a claim against a handler for
27 damages, or otherwise, in connection with the assessment or the
28 required deduction by the handler of the moneys owed to the
29 producer.

30 SEC. 5. Section 61306.5 is added to the Food and Agricultural
31 Code, to read:

32 61306.5. "Educational and research activities" means any effort
33 to develop and improve the management practices of dairy
34 producers and processors, including, but not limited to, practices
35 associated with the environmental sustainability of land, air quality,
36 and water quality.

37 SEC. 6. Section 61345 of the Food and Agricultural Code is
38 amended to read:

39 61345. (a) Chapter 2 (commencing with Section 61801),
40 Chapter 2.5 (commencing with Section 62500), and Chapter 3

(commencing with Section 62700) shall be liberally construed as being complementary of, and supplemental to, this chapter, and these chapters shall constitute a single comprehensive scheme for the regulation of the production and handling of milk and related educational and research activities. However, each of the chapters, and each article, section, subdivision, sentence, clause, and phrase of each chapter is severable.

(b) If one of the chapters or any article, section, subdivision, sentence, clause, or phrase of any one of the chapters is for any reason held void, invalid, or unconstitutional, the decision shall not affect the validity of any other chapter or any of its articles, sections, subdivisions, sentences, clauses, or phrases.

SEC. 7. Section 61412 of the Food and Agricultural Code is amended to read:

61412. (a) (1) Every milk handler who receives manufacturing milk subject to this article shall deduct as an assessment from payments made to producers for manufacturing milk the sum of one and two-tenths cents (\$0.012) per hundredweight of manufacturing milk.

(2) The amount of the assessments deducted pursuant to paragraph (1) shall be paid to the secretary on or before the 45th day following the last day of the month during which the manufacturing milk was received.

(b) (1) Every milk handler who receives manufacturing milk subject to this article that purchases or handles manufacturing milk from producers shall pay a fee of six-tenths of one cent (\$0.006) per hundredweight of manufacturing milk.

(2) The amount of the fee shall be paid to the secretary on or before the 45th day following the last day of the month in which the manufacturing milk was received.

(c) Moneys from the amounts paid to the secretary pursuant to subdivisions (a) and (b) may be used to administer and enforce this chapter.

SEC. 8. Section 61805 of the Food and Agricultural Code is amended to read:

61805. The purposes of this chapter are to do all of the following:

(a) Provide funds for administration and enforcement of this chapter, by assessments to be paid by producers and handlers of market milk in the manner prescribed in this chapter.

(b) Authorize and enable the secretary to prescribe marketing areas and to determine minimum prices to be paid to producers by handlers for market milk that are necessary due to varying factors of costs of production, health regulations, transportation, and other factors in the marketing areas of this state. In determining minimum prices to be paid producers by handlers, the secretary shall endeavor under like conditions to achieve uniformity of cost to handlers for market milk within any marketing area. However, no minimum prices established or determined under this chapter shall be invalid because uniformity of cost to handlers for market milk in any marketing area is not achieved as a result of the minimum producer prices so established or determined.

(c) Authorize and enable the secretary to formulate stabilization and marketing plans, subject to the limitations prescribed in this chapter with respect to the contents of the stabilization and marketing plans, and to declare the plans in effect for any marketing area.

(d) Enable the dairy industry, with the aid of the state, to develop and maintain satisfactory marketing conditions, bring about and maintain a reasonable amount of stability and prosperity in the production of market milk, and provide means for conducting educational and research activities.

SEC. 9. Section 62211 of the Food and Agricultural Code is amended to read:

62211. (a) (1) Every handler subject to the provisions of any stabilization and marketing plan, including a producer-handler, shall deduct as an assessment from payments made to producers for market milk, including the handler's own production, the sum of one and six-tenths cents (\$0.016) per hundredweight of market milk.

(2) The amount of the assessments so deducted shall be paid to the secretary on or before the 45th day following the last day of the month during which such market milk was received.

(b) (1) Every handler subject to the provisions of any stabilization and marketing plan that purchases or handles market milk from producers, including the handler's own production, if any, shall pay a fee of eight-tenths of one cent (\$0.008) per hundredweight of market milk.

1 (2) The amount of such fee shall be paid to the secretary on or
2 before the 45th day following the last day of the month in which
3 that market milk was received.

4 (c) Moneys from the amounts paid to the secretary pursuant to
5 subdivisions (a) and (b) may be used to administer and enforce
6 this chapter.

7 *SEC. 10. Section 76259 of the Food and Agricultural Code is*
8 *amended to read:*

9 76259. The term of office of all members of the commission,
10 except ex officio members, shall be two years from the date of
11 their election and until their successors are qualified. However, of
12 the first members of the commission, one-half of the producers
13 shall serve for one year, and one-half of the producers shall serve
14 for two years, with the determination of the term of each such
15 member made by lot at the time of the election. ~~Terms of office~~
16 ~~of each member of the commission shall be limited to four~~
17 ~~consecutive terms. A member of the commission who was selected~~
18 ~~by lot to serve a one-year term may serve four consecutive terms~~
19 ~~in addition to the first one-year term.~~

20 ~~SEC. 10.~~

21 *SEC. 11. Section 51203 of the Government Code is amended*
22 *to read:*

23 51203. (a) The assessor shall determine the current fair market
24 value of the land as if it were free of the contractual restriction
25 pursuant to Section 51283. The Department of Conservation or
26 the landowner, also referred to in this section as “parties,” may
27 provide information to assist the assessor to determine the value.
28 Any information provided to the assessor shall be served on the
29 other party, unless the information was provided at the request of
30 the assessor, and would be confidential under law if required of
31 an assessee.

32 (b) Within 45 days of receiving the assessor’s notice pursuant
33 to subdivision (a) of Section 51283 or Section 51283.4, if the
34 Department of Conservation or the landowner believes that the
35 current fair market valuation certified pursuant to subdivision (b)
36 of Section 51283 or Section 51283.4 is not accurate, the department
37 or the landowner may request formal review from the county
38 assessor in the county considering the petition to cancel the
39 contract. The department or the landowner shall submit to the
40 assessor and the other party the reasons for believing the valuation

1 is not accurate and the additional information the requesting party
2 believes may substantiate a recalculation of the property valuation.
3 The assessor may recover his or her reasonable costs of the formal
4 review from the party requesting the review, and may provide an
5 estimate of those costs to the requesting party. The recovery of
6 these costs from the department may be deducted by the city or
7 county from cancellation fees received pursuant to this chapter
8 before transmittal to the Controller for deposit in the Soil
9 Conservation Fund. The assessor may require a deposit from the
10 landowner to cover the contingency that payment of a cancellation
11 fee will not necessarily result from the completion of a formal
12 review. This subdivision shall not be construed as a limitation on
13 the authority provided in Section 51287 for cities or counties to
14 recover their costs in the cancellation process, except that the
15 assessor's costs of conducting a formal review shall not be borne
16 by the nonrequesting party.

17 (1) If no request is made within 45 days of receiving notice by
18 certified mail of the valuation, the assessor's valuation shall be
19 used to calculate the fee.

20 (2) Upon receiving a request for formal review, the assessor
21 shall formally review his or her valuation if, based on the
22 determination of the assessor, the information may have a material
23 effect on valuation of the property. The assessor shall notify the
24 parties that the formal review is being undertaken and that
25 information to aid the assessor's review shall be submitted within
26 30 days of the date of the notice to the parties. Any information
27 submitted to the assessor shall be served on the other party who
28 shall have 30 days to respond to that information to the assessor.
29 If the response to the assessor contains new information, the party
30 receiving that response shall have 20 days to respond to the
31 assessor as to the new information. All submittals and responses
32 to the assessor shall be served on the other party by personal service
33 or an affidavit of mailing. The assessor shall avoid ex parte contacts
34 during the formal review and shall report any such contacts to the
35 department and the landowner at the same time the review is
36 complete. The assessor shall complete the review no later than 120
37 days of receiving the request.

38 (3) At the conclusion of the formal review, the assessor shall
39 either revise the cancellation valuation or determine that the
40 original cancellation valuation is accurate. The assessor shall send

1 the revised valuation or notice of the determination that the
2 valuation is accurate to the department, the landowner, and the
3 board or council considering the petition to cancel the contract.
4 The assessor shall include a brief narrative of what consideration
5 was given to the items of information and responses directly
6 relating to the cancellation value submitted by the parties. The
7 assessor shall give no consideration to a party's information or
8 response that was not served on the other party. If the assessor
9 denies a formal review, a brief narrative shall be provided to the
10 parties indicating the basis for the denial, if requested.

11 (c) For purposes of this section, the valuation date of any revised
12 valuation pursuant to formal review or following judicial challenge
13 shall remain the date of the assessor's initial valuation, or his or
14 her initial recomputation pursuant to Section 51283.4. For purposes
15 of cancellation fee calculation in a tentative cancellation as
16 provided in Section 51283, or in a recomputation for final
17 cancellation as provided in Section 51283.4, a cancellation value
18 shall be considered current for one year after its determination and
19 certification by the assessor.

20 (d) Notwithstanding any other provision of this section, the
21 department and the landowner may agree on a cancellation
22 valuation of the land. The agreed valuation shall serve as the
23 cancellation valuation pursuant to Section 51283 or Section
24 51283.4. The agreement shall be transmitted to the board or council
25 considering the petition to cancel the contract.

26 (e) If the department and landowner agree upon a cancellation
27 value pursuant to subdivision (d) on a contract with a city or county
28 that includes an additional cancellation fee pursuant to Section
29 51240, the department shall provide a preliminary valuation to the
30 county assessor of the county in which the land is located and the
31 board of supervisors or the city council at least 60 days before the
32 effective date of the final cancellation valuation. The preliminary
33 valuation shall include a description of the rationale and facts
34 considered by the department in determining the cancellation value.
35 The assessor may provide comments on the preliminary valuation
36 to the board of supervisors or city council. The board of supervisors
37 or city council may provide comments on the preliminary valuation
38 and cancellation value, if submitted, to the department. Before
39 determining the final cancellation valuation, the department shall

1 consider the comments of the board or council concerning the
2 preliminary valuation and cancellation valuation, if submitted.
3 (f) This section represents the exclusive administrative procedure
4 for appealing a cancellation valuation calculated pursuant to this
5 section. The Department of Conservation shall represent the
6 interests of the state in the administrative and judicial remedies
7 for challenging the determination of a cancellation valuation or
8 cancellation fee.

O